

401 KAR 5:070. Provisions of the KPDES permit.

RELATES TO: KRS 224.01-010, 224.01-070, 224.01-400, 224.70-100, 224.70-120, 224.99-010, 40 C.F.R. 122.403, 33 U.S.C. 1251-1387

STATUTORY AUTHORITY: KRS 224.10-100, 224.16-050(1), (4), 224.70-110, 40 C.F.R. 122, 403, 33 U.S.C. 1251-1387

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.16-050(1) authorizes the cabinet to issue federal permits pursuant to 33 U.S.C. 1342(b) of the Federal Water Pollution Control Act, 33 U.S.C. 1257-1387 subject to the conditions established in 33 U.S.C. 1342(b) and (d). KRS 224.16-050(1) requires that any exemptions granted in the issuance of these permits shall be pursuant to 33 U.S.C. 1311, 1312, and 1326(a). KRS 224.16-050(4) requires that the cabinet shall not impose under any permit issued pursuant to this section any effluent limitation, monitoring requirement, or other condition that is more stringent than the effluent limitation, monitoring requirement, or other condition that would have been applicable under the federal regulation if the permit were issued by the federal government. This administrative regulation contains the basis for provisions, terms, and effect of a KPDES permit, including permit duration, schedule of compliance, and basis for permit modification or revocation and reissuance.

Section 1. Duration of Permits. The duration of a KPDES permit shall be as established in 40 C.F.R. 122.46, effective July 1, 2009.

Section 2. Schedules of Compliance. A schedule of compliance for KPDES permit shall be as established in 40 C.F.R. 122.47, effective July 1, 2009.

Section 3. Requirements for Recording and Reporting of Monitoring Results. The requirements for recording and reporting of a monitoring result shall be as established in 40 C.F.R. 122.48, effective July 1, 2009.

Section 4. Effect of a Permit. (1) Except for a toxic effluent standard or prohibition established in 401 KAR 5:065, Section 2, compliance with a KPDES permit during its term shall constitute compliance, for purposes of enforcement, with the KPDES program.

(2) A permit may be modified, revoked and reissued, or revoked during its term for cause as established in Sections 6 and 7 of this administrative regulation.

(3) The issuance of a permit shall not convey property rights or exclusive privilege.

(4) The issuance of a permit shall not authorize injury to persons or property, invasion of other private rights, or infringement of state or local law or administrative regulations.

Section 5. Transfer of Permits. Transfer of a KPDES permit shall be as established in 40 C.F.R. 122.61, effective July 1, 2009.

Section 6. Modification or Revocation and Reissuance of Permit. (1) The modification or revocation and reissuance of a KPDES permit shall be as established in 40 C.F.R. 122.62, effective July 1, 2009.

(2) A minor modification of a KPDES permit shall be as established in 40 C.F.R. 122.63, effective July 1, 2009.

Section 7. Revocation of Permit. The causes and procedure for revoking a KPDES permit shall be as established in 40 C.F.R. 122.64, effective July 1, 2009.

Section 8. Substitutions, Exceptions, and Additions to Cited Federal Regulations.

(1) "Waters of the Commonwealth" shall be substituted for "Waters of the United States" in the federal regulations cited in this administrative regulation.

(2) "Cabinet" shall be substituted for "Director" if the authority to administer the federal regulations cited in this administrative regulation has been delegated to the cabinet.

(3) "KPDES" shall be substituted for "NPDES" if the cabinet has been delegated the authority to implement federal regulations cited in this administrative regulation. (9 Ky.R. 872; Am. 1133; eff. 6-1-1983; 11 Ky.R. 773; eff. 1-7-1985; 12 Ky.R. 550; eff. 12-10-1985; 20 Ky.R. 3282; 21 Ky.R. 430; eff. 8-24-1994; 29 Ky.R. 1083; 1594; eff. 12-18-2002; TAm eff. 8-9-2007; 36 Ky.R. 2112-M; 37 Ky.R. 44; eff. 8-5-2010.)